

Form and Correctness Approved: *BAP*

Contents Approved:

By: \_\_\_\_\_  
Office of the City AttorneyBy: \_\_\_\_\_  
DEPT. Planning

NORFOLK, VIRGINIA

**Ordinance No. 48613**

AN ORDINANCE GRANTING A CONDITIONAL USE PERMIT TO AUTHORIZE THE OPERATION OF A COMMERCIAL RECREATION CENTER AND A RESTAURANT OPERATING WITH EXTENDED HOURS NAMED "DIRTY BUFFALO" ON PROPERTY LOCATED AT 4012 COLLEY AVENUE.

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BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That conditional use permits are hereby granted to The Dirty Buffalo Restaurant, LLC authorizing the operation of the following principal uses and accessory uses:

- (a) Commercial Recreation Center (principal use)
- (b) Restaurant operating with extended hours (principal use)

Section 2:- That the full extent of the property or properties where the permit or permits described above are hereby made effective, upon the date set forth below, is described as follows:

Property fronts 125 feet, more or less, along the eastern line of Colley Avenue and 185 feet, more or less, along the southern line of West 41<sup>st</sup> Street; property also fronts 100 feet, more or less, along the western line of Mayflower Road; premises numbered 4012 Colley Avenue.

Section 3:- That the conditional use permits granted herein shall be subject to all of the general conditions set forth in section 2.4.8.D of the Norfolk Zoning Ordinance and all of the following additional conditions, requirements, and limitations:

- (a) The operation of the principal use of a Restaurant and a Commercial Recreation Center

must be conducted in accordance with the applicable performance standards that are set forth in Section 4.2 of the Norfolk Zoning Ordinance.

- (b) The revocation, termination, or expiration of any one of the permits granted herein shall constitute grounds for revocation of every other permit granted herein.
- (c) The business authorized by this Conditional Use Permit shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Conditional Use Permit. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Conditional Use Permit must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (d) The layout of the establishment shall adhere to the specifications of the floor plans attached hereto and marked as "Exhibit B." Any tables, chairs, booths, stools or other movable furniture may be relocated provided that it conforms with all building code requirements.
- (e) There shall be no more than eight (8) stand-up arcade video games provided and no other games of recreation or amusement shall be provided unless the total number of games of recreation or amusement does not exceed eight.
- (f) The hours of operation for the establishment and for the sale of alcoholic beverages shall be limited to 11:00 a.m. until 2:00 a.m. the following morning, seven days a week. No use of the establishment outside of the hours of operation listed herein shall be permitted.
- (g) The seating for the establishment shall not exceed 150 seats indoors, 30 seats outdoors, and

the total occupant capacity, including employees, shall not exceed 225 people.

- (h) There shall be no entertainment, no dancing, and no dance floor provided.
- (i) No amplified sound shall be permitted in any outdoor area, including the outdoor dining area, after 11:00 p.m. Sunday through Thursday nor after 12:00 midnight on Friday and Saturday.
- (j) No smoking or vaping shall be permitted anywhere in the outdoor seating area. Signage notifying patrons of this restriction shall be conspicuously posted.
- (k) The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.
- (l) No portion of the outdoor dining area shall be enclosed, and any covering must leave the dining space open on at least three sides and no portion of the outdoor dining area shall be heated or cooled.
- (m) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the conditional use permit so as to keep such areas free of litter, refuse, and both solid and liquid waste.
- (n) If a solid waste receptacle is situated on the site, it shall be positioned along the rear of the building in a location that does not interfere with access to any parking space, impede use of the vehicular drive aisle, or encroach into any required buffer yard or setback. The receptacle shall be surrounded by a six (6) foot tall privacy fence with a locking gate.
- (o) All landscaping installed on the premises shall be maintained in a healthy growing condition at all times and shall be replaced when necessary.

- (p) The establishment shall maintain a current, active business license at all times while in operation.
- (q) The establishment shall remain current on all food and beverage taxes, business personal property taxes, and other local taxes which may become due while it is in operation.
- (r) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.
- (s) The establishment shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The establishment shall describe the program in writing and its availability shall be made known to patrons by printing it either on the menu or a card placed on each table and the bar.
- (t) The violation of any condition, requirement, or limitation imposed by the Virginia ABC Authority shall be deemed a violation of this ordinance. Any conditional use permit granted by the ordinance may be revoked for any violation of a general or specific condition, including a condition incorporated by reference or arising from conditions, requirements, or limitations imposed on any aspect of the operation of the establishment by the ABC Authority or by Virginia law.
- (u) A copy of this conditional use permit ordinance and Exhibits shall be available on the premises at all times for inspection, and a notice indicating that this conditional use permit ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.
- (v) A binder or folder containing documentation relating to the operation of the establishment

shall be kept on the premises at all times and shall be produced upon request made by any person. For purposes of this section, the documentation relating to the operation of the establishment shall include copies of the following:

- (1) This ordinance;
  - (2) Any ABC license(s);
  - (3) Any occupancy permit(s);
  - (5) All fire code certifications, including alarm and sprinkler inspection records;
  - (6) Any health department permit(s);
  - (7) The emergency action plan required under the Fire Prevention Code;
  - (8) The names, addresses, and phone numbers of all persons who manage or supervise the establishment at any time; and
  - (9) The establishment's designated driver program.
- (w) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.
- (x) A copy of this Conditional Use Permit ordinance and Exhibits shall be available on the premises at all times for inspection, and a notice indicating that this special exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

Section 4:- That the City Council hereby determines that the conditional use permit or permits granted herein comply with each of the standards set forth in section 2.4.8.C of the Norfolk Zoning Ordinance.

Section 5:- That, because the operation of this establishment in the manner proposed in the application requires the grant of more than one conditional use permit, the City Council finds that its operation is only appropriate at the location where it is being authorized when conducted in the manner proposed, as modified by the City Council, and that each permit should be subject to the same conditions, requirements and limitations in order to constrain the operation in a manner that adequately protects public health safety and welfare.

Section 6:- That this ordinance hereby amends the previously granted special exceptions permitting the operation of an eating and drinking establishment, adopted on July 11, 2017 (Ordinance No. 46,895) and on April 12, 2016 (Ordinance No. 46,317), and permitting a commercial recreation center, adopted on April 12, 2016 (Ordinance No. 46,316), on this property. All provisions and conditions previously approved are entirely superseded by the terms of this ordinance.

Section 7:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENTS:

Exhibit A (3 pages)

Exhibit B (1 page)

Adopted by Council January 11, 2022  
Effective January 11, 2022

TRUE COPY

TESTE:

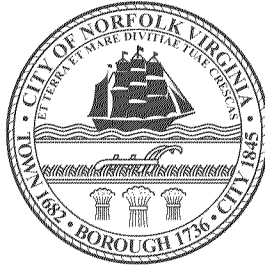
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RICHARD ALLAN BULL

BY:

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CHIEF DEPUTY CITY CLERK



## EXHIBIT "A"

Description of Operations  
Restaurant with Extended Hours of Operation

Date:

Trade name of business: The Dirty Buffalo Restaurant, LLCAddress of business: 4012-4110 Colley AveName(s) of business owner(s)\*: Russel GilbertName(s) of property owner(s)\*: Russel Gilbert - Gilbert Leasing, LLC

Daytime telephone number (757) 359-0614

\*If business or property owner is partnership, all partners must be listed.

\*If business or property owner is an LLC or Corporation, all principals must be listed.

Proposed Hours of Operation:

FacilityAlcoholic Beverage SalesWeekday From: 11 AM To: 2 AM Weekday From: 11 AM To: 2 AMFriday From: 11 AM To: 2 AM Friday From: 11 AM To: 2 AMSaturday From: 11 AM To: 2 AM Saturday From: 11 AM To: 2 AMSunday From: 11 AM To: 2 AM Sunday From: 11 AM To: 2 AM

2. Type of ABC license applied for (check all applicable boxes):

☒ On-Premises ☐ Off-Premises (additional application required)

3. Type of alcoholic beverage applied for:

☒ Beer ☒ Wine ☒ Mixed Beverage

4. If entertainment be provided, a different application is required.

(Entertainment consists of anything more than one, unamplified musician)

5. Will video games, pool tables, game boards or other types of games be provided?

☒ Yes (If more than 4, additional application required) ☐ No

5a. If yes, please describe type and number of each game to be provided

8 video games

## DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

(Revised July, 2018)

**Restaurant with Extended Hours of Operation**

6. Will patrons ever be charged to enter the establishment?

Yes ☐ X No

6a. If yes, why

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6b. Which days of the week will there be a cover charge (circle all applicable days)?

Monday Tuesday Wednesday Thursday Friday Saturday Sunday

7. Will the facility or a portion of the facility be available for private parties?

X Yes ☐ No

7a. If yes, explain

Birthdays, corporate events, social events

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8. Will a third party (promoter) be permitted to lease, let or use the establishment?

Yes ☐ X No

8a. If yes, explain

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9. Will there ever be a minimum age limit?

Yes ☐ X No

10. Additional comments/ description/operational characteristics or prior experience:

Note: If smoking is permitted, then floor plans must be submitted showing all necessary building requirements for such facility

X Signature of Applicant


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**Exhibit A – Floor Plan(s) Worksheet**  
**Restaurant with Extended Hours of Operation**

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan must be prepared by a registered design professional and include:
  - Tables/seats
  - Restroom facilities
  - Bar
  - Ingress and egress
  - Standing room
  - Outdoor seating
  - Total maximum capacity (including employees)

**TOTAL CAPACITY**

**a. Indoor**

Number of seats (not including bar seats)	<u>120</u>
Number of bar seats	<u>30</u>
Standing room	<u>30</u>

**b. Outdoor**

Number of seats	<u>30</u>
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**c. Number of employees**

15

**Total Occupancy**

**(Indoor/Outdoor seats, standing room and employees) = 225**

# Exhibit B

6.1.b

